HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No. 18417 OF 2007

DATE: 10.09.2007

Between:

Sk. Azharuddin

..... PETITIONER

AND

The Superintendent of Police,
Nizamabad, Nizamabad District
and 2 others.

.....RESPONDENTS

HON'BLE SRI JUSTICE A. GOPAL REDDY
AND
HON'BLE SRI JUSTICE P. SWAROOP REDDY

WRIT PETITION No. 18417 OF 2007

ORDER: (Per Hon'ble Sri Justice A. Gopal Reddy)

The petitioner filed this Writ of Habeas Corpus alleging that the third respondent, father of alleged detenu Ayesha firdouz, is his maternal

uncle and the engagement ceremony of him with the alleged detenu was performed on the next day to the Ramzan festival, 2006 and later, when the parents of the alleged detenu tried to perform her marriage with another person, on the SMS sent by her requesting him to take her from her parents house and marry her, he took her to Hyderabad and married her before the qazi on 1.3.2007 and after the marriage, they stayed together for 15 days. Later, on the complaint lodged by the third respondent before the second respondent, a case in Crime No.33 of 2007 under Section 366-A of IPC was registered and he obtained bail in that crime. In the said crime, the statement of his wife (alleged detenu) was recorded under Section 164 Cr.P.C., wherein, she stated that she voluntarily married the petitioner and stayed in a rented house for 15 days after the marriage. On coming to know that a crime was registered against the petitioner and his two sisters and brother-in-law, when she along with them went to the police station, police sent her to the hospital and from there, her parents took away her and now she is staying with her parents.

In view of the 164 Cr.P.C. statement recorded by the Magistrate, wherein the alleged detenu deposed that she willingly married the petitioner, she was directed to be produced into the Court along with her parents.

Today, the alleged detenu is present in the Court along with her parents. We examined the girl in the presence of the counsel for the petitioner. She stated that she is aged about 14 years and now studying 10th Class and she was forced to give the statement before the Magistrate and she gave the said statement under the influence of the petitioner and she wants to prosecute her further studies by staying with her parents. Since the alleged detenu is a minor girl and as she is not

willing to join the company of the petitioner, her parents are entitled to her custody till she attains the age of majority and she cannot be handed over to the petitioner as prayed for.

The writ petition is accordingly dismissed granting liberty to the petitioner to explore the remedies available to him before the appropriate forum to have the custody of the girl. No costs.

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A. GOPAL REDDY, J.

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10th SEPTEMBER, 2007 P. SWAROOP REDDY, J.

Tsr.